

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re U.S. Patent No. 7,396,602)	
Issue Date: July 8, 2008)	Group Art Unit: 1795
Inventor: Antonino TORO)	Examiner: Thomas H. Parsons
Application No.: 10/536,561)	Conf. No. 9936
Filed: May 25, 2005)	
For: ELECTROCHEMICAL)	
GENERATOR AND METHOD)	
FOR ITS UTILISATION)	

**Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450**

Sir:

DETERMINATION OF PATENT TERM ADJUSTMENT - POST GRANT

The U.S. Patent and Trademark Office (USPTO) issued the subject U.S. Patent No. 7,396,602 (the '602 patent) on July 8, 2008, with a patent term adjustment (PTA) of 350 days. The application was filed on May 25, 2005. The USPTO reached the PTA of 350 days in view of a 379 day PTO delay to issue the first notification under 35 U.S.C. § 132 (dated August 8, 2007), and an Applicant delay of 29 days from the mailing of the Non-Final Rejection on August 8, 2007, to their Response dated December 27, 2007. See the Issue Notification dated June 18, 2008.

Thus, 44 days of USPTO delay accrued after the application had been pending for three years (between the third year anniversary date May 25, 2008, and the issuance of the patent on July 8, 2008). Under the PTO's manner of calculating PTA, applicants were not provided those additional 44 days of PTO delay in the PTA.

Customer No. 22,852
U.S. Patent No. 7,396,602
Attorney Docket No. 10585.0019


In view of the decision of the Federal District Court for the District of Columbia in Wyeth v. Dudas on September 30, 2008, patentee submits it is entitled to a total patent term adjustment of 394 days which is the sum of 44 days of patent term adjustment due to exceeding three year pendency accrued at the time the patent issued and 350 days resulting from the 379 day PTO delay to issue the first notification under 35 U.S.C. § 132 minus Applicant's 29 day patent term adjustment delay. The 44 days exceeding the three year pendency did not actually overlap with any of the earlier 350 day PTO delay.

If there are any fees due in connection with the filing of this request, please charge such fees to our Deposit Account No. 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: December 31, 2008

By: 
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